

# Exhibit M

LD, DB, BW, RH v. United Healthcare Insurance Comp

Page 1

1 UNITED STATES DISTRICT COURT  
 2 NORTHERN DISTRICT OF CALIFORNIA  
 3

4 LD, DB, BW, RH, and CJ on )  
 behalf of themselves and )  
 5 all others similarly situated, )  
 Plaintiffs, )No.  
 6 vs. )4:20-cv-02254-YGR  
 UNITED HEALTHCARE INSURANCE )  
 7 COMPANY, a Connecticut ) CONFIDENTIAL  
 Corporation, UNITED BEHAVIORAL ) ATTORNEYS' EYES  
 8 HEALTH, a California ) ONLY  
 Corporation, and MULTIPLAN, )  
 9 INC., a New York Corporation, )  
 Defendants. )

10  
 11  
 12 The videotaped discovery deposition of  
 13 MULTIPLAN, INC., by and through Sean Crandell,  
 14 taken in the above-entitled cause, before  
 15 Deralyn Gordon, a notary public of Cook County,  
 16 Illinois, on the 14th day of July, 2022, via  
 17 virtual Zoom, beginning at approximately  
 18 9:13 AM CST, pursuant to 30(b)(6) and 30(b)(1)  
 19 Notice.

20  
 21  
 22  
 23 REPORTED BY: DERALYN GORDON, CSR, RPR, CRR  
 24 LICENSE NO: 084-003957

1 PRESENT:

2  
3 ARNALL GOLDEN GREGORY LLP

4 BY AARON R. MODIANO, ESQ.

5 1775 Pennsylvania Avenue NW, Suite 1000

6 Washington DC 20006

7 (202) 677-4030

8 aaron.modiano@agg.com

9 -AND-

10 DL LAW GROUP

11 BY KATIE SPEILMAN, ESQ.

12 345 Franklin Street

13 San Francisco, California 94102

14 (415) 969-6329

15 katie@dllawgroup.com

16 appeared on behalf of plaintiffs;

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1 PRESENT: (CONT'D)

2  
3 PHELPS DUNBAR LLP

4 BY CRAIG L. CAESAR, ESQ., and

5 ERROL KING, ESQ.

6 365 Canal Street, Suite 2000

7 New Orleans, Louisiana 70130

8 (504) 566-1311

9 craig.caesar@phelps.com

10 errol.king@phelps.com

11 -AND-

12 PHELPS DUNBAR LLP

13 BY KATIE CICARDO MANNINO, ESQ.,

14 400 Convention Street, Suite 1100

15 Baton Rouge, Louisiana 70802

16 (225) 346-0285

17 katie.mannino@phelps.com

18 appeared on behalf of defendant MultiPlan,

19 Inc., and the deponent;

1 PRESENT: (CONT'D)

3 GIBSON DUNN & CRUTCHER LLP

4 BY HEATHER RICHARDSON, ESQ., and

5 KRYSTA HYPPOLITE, ESQ.,

6 333 South Grand Avenue

7 Los Angeles, California 90071

8 (213) 229-7000

9 hrichardson@gibsondunn.com

10 khyppolite@gibsondunn.com

11 appeared on behalf of plaintiffs

12 United Healthcare and United

13 Behavioral Health;

17 ALSO PRESENT:

18 Ms. Gracie Huff, Concierge;

19 Mr. Kevin Duncan, Videographer.

20 Mr. Darwin Peng.

1 think of -- think of that UB that we talked about  
2 earlier, the boxes that are on the UB claim, what  
3 is filled out and what's not filled out.

4 Q. Okay. And then if you just go down to --  
5 well, it's kind of -- it's sort of between lines,  
6 between line 22 and 23. In the answer it says,  
7 "MultiPlan states that while its finance  
8 department keeps track of billing records for  
9 accounting purposes, it does not run any analyses  
10 or reports 'to determine the frequency or rate  
11 that [MultiPlan] receives fees from United from  
12 the use of Viant OPR.'"

13 So is the finance -- the finance  
14 department that's referred to, is that you?

15 A. Yes. It's the finance area, yeah.

16 Q. This one says, "keeps track of billing  
17 records for accounting purposes."

18 How do you keep track of billing records  
19 for accounting purposes?

20 MR. CAESAR: Objection as to form.

21 You can answer.

22 A. Yeah, we receive a file from United -- not  
23 we. Our accounting area receives a file from  
24 United on what claims they're paying us on every

1 month. That's probably what it's referring to.

2 BY MR. MODIANO:

3 Q. And United is at self-bill; correct?

4 A. Yes.

5 (Court reporter clarification.)

6 BY MR. MODIANO:

7 Q. And so for the record, can you explain  
8 what -- when we say self-bill what that means?

9 A. Yeah. In this case a client would send us  
10 a file and say here is what we are paying you on  
11 for the services that you rendered. And it  
12 usually includes a claim number or somehow a way  
13 to identify the claim of what we processed for  
14 them.

15 Q. And do you and finance or other  
16 departments then, you know, cross-check it against  
17 what you -- what was the claims information you  
18 sent to United?

19 A. The billing intricacies, it's a very  
20 complex system because somebody is rendering  
21 payment for services that were incurred it could  
22 have been two months ago, it could have been  
23 four months ago.

24 So the array of data that's in there is

1 often very stratified in trying to push it back  
2 into the original format.

3 Q. Sure. But is it done? I mean, do you  
4 guys cross-check it?

5 A. High level, yes. You know, we have to  
6 just to make sure that, you know, if we bring on a  
7 new client to making sure that, you know, if we're  
8 achieving or identifying savings for them as a  
9 service, to make sure that, you know, we're  
10 actually getting paid on some of it.

11 But, again, we don't -- you know, we're  
12 identifying savings for a client as, you know,  
13 here's what our recommendation is. And there's a  
14 whole host of things that happen on the payor side  
15 that I can't really necessarily explain on why we  
16 wouldn't get paid on certain claims.

17 Q. Okay. And for the Viant OPR methodology,  
18 do you know -- let's -- in 2021 what percent of  
19 the time, just ballpark number, United used  
20 the Viant OPR methodology pricing recommendation?

21 MR. CAESAR: Object to form.

22 A. I'm going to assume, you know, if, like,  
23 75 to 80 percent, right around there.

24 BY MR. MODIANO:



1 or I'm going to ask you a few questions about this  
2 document that was produced to us as MPI0005784.  
3 And it's an Excel spreadsheet. So I just wanted  
4 to identify that for the record.

5 But pursuant to the discussion we just  
6 had, you know, we're not introducing it as an  
7 exhibit at this time. And all counsel have agreed  
8 to that.

9 MR. MODIANO: Is that a fair statement,  
10 Craig?

11 MR. CAESAR: Yes.

12 MR. MODIANO: Okay.

13 BY MR. MODIANO:

14 Q. So do you see this document?

15 A. Yes, sir.

16 Q. Okay. Does -- is this document something  
17 that would have been prepared by HCE?

18 A. It could have been HCE or a self-service  
19 tool.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

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Do you see that?

13

A. Yes.

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A. A couple of notes. I don't know the -- the scope of this document. You know, what it's particularly pertaining to, is it a particular product and that type of thing.

So in order to comment on it, I really would have to know what the context of this is. And maybe I did something like this, but I -- I don't remember doing it.

1 that document away from Mr. Crandell so we can  
2 proceed.

3 (Court reporter clarification.)

4 (Discussion held off the  
5 record.)

6 (Crandell Deposition Exhibit  
7 No. 9 marked for  
8 identification.)

9 BY MR. MODIANO:

10 Q. I've just introduced Plaintiffs'  
11 Exhibit 9. It's an May 2018 email from Jacquelyn  
12 Kienzle. Just let me know when you have -- when  
13 you get that.

14 A. Okay. I have it up.

15 Q. And this is a UHC Bates numbers, so it was  
16 produced to us by United. But I'm using a copy of  
17 it because the chart -- or the table, rather, is a  
18 lot easier to read than on the corresponding  
19 MultiPlan one.

20 And I just wanted to call your attention  
21 first to line -- row 2, sorry, of the table. Do  
22 you see that under column HCPCS CPT, it has H0015?

23 A. Yes.

24 Q. Okay. And then right next to that it says

1 "Intensive Outpatient."

2 Do you see that?

3 A. Yes.

4 Q. And then the next column is "CMS Medicare  
5 Pay Rate," and that says "Null."

6 A. Yes.

7 Q. And do you know why the CMS Medicare pay  
8 rate is returned as null for HCPCS H0015?

9 A. I'm assuming that -- I don't know every  
10 single code and whether or not it's covered by  
11 Medicare.

12 So if it's blank, it's either two -- two  
13 outcomes; it's not covered by Medicare or it's  
14 bundled with something else.

15 Q. Okay. I assume, then, 500 percent of  
16 Medicare rate would just be five times  
17 the CMS Medicare rate. Is that a fair reading of  
18 that?

19 A. That's a fair assumption to make.

20 Q. And it would be empty because five times  
21 zero is zero?

22 A. Yeah.

23 Q. Okay. I don't think I need to ask any  
24 other questions on that email.

1 not to answer any questions.

2 So it's 20019 [sic] to 22 -- 2020 MPI.

3 Okay?

4 MR. MODIANO: Okay.

5 BY MR. MODIANO:

6 Q. So let me ask it this way then. So,  
7 Mr. Crandell, is it correct -- I believe it was  
8 your testimony earlier that you reviewed material  
9 relating to HCPCS H0015 in preparation for your  
10 testimony here today?

11 A. Yes.

12 Q. Okay. And how does -- okay. Let me pick  
13 a time period.

14 So in 2016 how did Viant OPR -- the Viant  
15 OPR methodology price a claim under H0015?

16 A. Under H0015 it had a episode that it was  
17 pricing at a national level because of  
18 insufficient data locally, for H0015.

19 Q. Okay. And so how many episodes nationally  
20 in 2016 were there for H0015?

21 A. It was very minimal. I don't know  
22 the exact number, but, you know, it wasn't -- it  
23 wasn't a large sample size.

24 Q. Can you give me a sense? Are we talking

1 30, 100, 1,000?

2 A. It's over 100.

3 Q. Less than 1,000?

4 A. Yes.

5 Q. Less than 500?

6 A. A little less than 500, yeah, I would  
7 think.

8 Q. Okay.

9 A. General range.

10 Q. So do you -- did HCE look into why H0015  
11 had such a relatively small sample size in 20- --  
12 you know, during that period?

13 A. Yes, we did.

14 Q. And what were the -- what did you find?

15 A. Well, we, again, rely on our SAF file for  
16 episodes of care.

17 The H0015 did have minimal input in it.  
18 But, again, you know, we're not going to -- it's  
19 the data, it's how it's arrayed.

20 However, if you look at other like  
21 episodes of care under H0015 and if you broaden  
22 that scope somewhat, there are -- there is  
23 episodes of care that fall outside of -- outside  
24 of H0015 that map to the similar type services

1 in -- in question here.

2 Q. Okay. There's a lot to unpack there.

3 A. Uh-huh.

4 Q. So do you have a sense of how many --  
5 we'll just say United, how many United claims for  
6 H0015 were evaluated by the -- with the Viant  
7 OPR methodology in 2016?

8 A. Not in specifically 2016, no.

9 Q. Then I'll broaden the question.

10 A. Uh-huh.

11 Q. What is your understanding of the volume  
12 of claims under H- -- that MultiPlan -- that  
13 the Viant OPR methodology prices under H0015?

14 A. The volume? I can't cite for you. It's a  
15 large volume of claims. You know, let's really  
16 define "large" though. In essence of our overall  
17 book of business, you know, it's a smaller  
18 portion. But it's all on how you proportionalize  
19 it in your sample size.

20 Q. Sure. Well, we can do it this way.

21 You testified that you reviewed the claims  
22 report that was provided?

23 A. Yes.

24 Q. And from memory I think that had something

1 Does that help?

2 Q. It does. I definitely have a few  
3 follow-up questions though.

4 A. Uh-huh.

5 Q. So do you know what HCPCS CMS crosswalks  
6 to APC 5823? Do you know what those -- what those  
7 HCPCS are?

8 A. Not off the top of my head, no.

9 Q. Okay. Do you know if those HCPCS refer to  
10 services provided in a hospital setting?

11 A. Not off the top of my head, no.

12 Q. Okay. Do you know what type of provider  
13 would render the services that roll up into  
14 APC 5823?

15 A. In the SAF file it's going to be coming  
16 from hospital outpatient providers.

17 Q. Okay. And do you know if there was ever  
18 any validation that H0015 was similar to the HCPCS  
19 that rolled up into 5823?

20 A. Similar, my -- my previous statement I'll  
21 kind of re-echo the same thing. You know, in  
22 those discussions in the research, Karen and Tom,  
23 you know, usually would look at all aspects of  
24 coding.



1 price H0015?

2 A. I don't know the historical view of  
3 evaluation of different data sets. But it's --  
4 it's something that we always look at of what's in  
5 the industry.

6 But, again, the SAF file is the largest  
7 representation of charge-based data that doesn't  
8 allow any bias at all from a standpoint of what  
9 people are actually reporting into it.

10 Q. Sure. And I understand your statement  
11 that it's the largest representation of  
12 charge-based data.

13 A. Uh-huh.

14 Q. Then my question is what about  
15 the represent- -- does it sufficiently represent  
16 outpatient behavioral health charges?

17 A. I would --

18 MR. CAESAR: Well, I'm going to object to  
19 form.

20 You can answer.

21 A. Yeah, from an outpatient behavioral health  
22 APC 5823 has over I believe it's a million  
23 episodes of care, you know, across the nation  
24 of -- so I would deem that as a valid sample.

1 sent in to us and basically returning the value  
2 that the methodology is returning through -- back  
3 through Duke.

4 BY MR. MODIANO:

5 Q. Okay. So it takes an input and it gives  
6 you an output?

7 A. Yup. That's the way we designed it. It's  
8 not a rules engine. It's something that these are  
9 the inputs in, here's what you get out.

10 Q. Okay. So from 2018 -- is it an accurate  
11 statement that from 2018 forward no H00- -- no  
12 H0015 claims were actually used -- when I say  
13 claims, I mean data from the SAF file, that no  
14 H0015 data was used to price H0015 claims in  
15 the Viant OPR methodology?

16 MR. CAESAR: Objection as to form.

17 You can answer.

18 A. Not to my knowledge.

19 BY MR. MODIANO:

20 Q. Okay. And so is it your understanding  
21 that the determination that H0015 was  
22 accurately -- or could be priced using APC 5823,  
23 that was a decision that was made by Tom and Karen  
24 or how was that determination made?